

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

COMPUWARE CORPORATION,  
a Michigan Corporation,

Case No. 04-73749

Plaintiff/  
Counterclaim Defendant,

District Judge Anna Diggs Taylor

Magistrate Judge R. Steven Whalen

v.

OPNET TECHNOLOGIES, INC.,  
a Delaware Corporation,

Defendant/  
Counterclaim Plaintiff.

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**ORDER DISMISSING MOTION TO COMPEL AND  
FOR SANCTIONS AS MOOT**

Before the Court is Plaintiff's Motion to Compel Production of Withheld Documents and for Sanctions [Docket #116]. This Motion will be submitted on the pleadings, without oral argument. *See* E.D. Mich. L.R. 7.1(e)(2).

Plaintiff first reiterates its argument that Defendant has improperly produced documents on a "rolling basis," with no "end in sight" or date certain. However, on November 30, 2005, subsequent to the filing of the present motion, the Court granted Plaintiff's previous discovery motion, and pursuant to that order, Defendant submitted an affidavit verifying that all documents at issue had been provided to Plaintiff.

Plaintiff also objects to Defendant's withholding of documents relating to versions of its ACE/IT Guru products other than 10.5. That issue has been resolved by separate order.

Plaintiff further objects to the format of what Defendant refers to as "millions of pages of documents" related to the several versions of its products. That issue was raised in

Plaintiff's Rule 34 motion [Docket # 114]. In its Reply Brief in that Motion, Plaintiff states that Opnet has now complied with Rule 34 by providing documents in their native format. *See* Docket #139, p.1.

Accordingly, Plaintiff's Motion to Compel [Docket #116] is DISMISSED AS MOOT.

SO ORDERED.

S/R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

Dated: January 17, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on January 17, 2006.

S/Gina Wilson  
Judicial Assistant